



November 23, 1999

Mr. Gary Smith
Legal Advisor
Baytown Police Department
3200 North Main Street
Baytown, Texas 775221

OR99-3377

Dear Mr. Smith:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 129613.

The Baytown Police Department (the "department") received a written request for "a complete copy of the police report and any other pertinent data associated" with a specified case. In response to the request, you submit to this office for review the information at issue. You state that the department has released to the requestor some of the responsive information. You assert, however, that the remaining information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108, the "law enforcement" exception excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

....

(c) This section does not except from the requirements of section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. The exception from disclosure under section 552.108 is discretionary and may be waived by the governmental body. Open Records Decision No. 177 (1977). *See also* Open Records Decision No. 586 (1991).

The submitted investigation report indicates that the department investigation concluded as a "suicide" investigation. Since you state that the requested "information relates to an investigation from which no charges were filed, no conviction or deferred adjudication resulted," we address the pending request under section 552.108(a)(2). Based on the submitted records, we conclude that most of the information "deals with the detection, investigation, or prosecution of crime . . . in relation to an investigation that did not result in conviction or deferred adjudication." Therefore, the department may withhold the responsive information under section 552.108(a)(2) of the Government Code.

However, as you are aware, certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c); *see generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 187 (Tex. Civ. App--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic information subject to release, section 552.108(a)(2) excepts the remaining information from public disclosure. Although section 552.108 authorizes you to withhold the remaining information from public disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

As we resolve your request under section 552.108, we need not address your arguments pursuant to sections 552.101 and 552.130 of the Government Code.¹ We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Haddad", is written over the word "Sincerely,". The signature is fluid and cursive.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 129613

Encl.: Submitted documents

(w/o enclosures)

¹Generally, the right of privacy is personal to an individual and lapses upon death. Attorney General Opinion H-917 (1976); Open Records Decision No. 272 (1981). Federal law may prohibit disclosure of the social security numbers included in this request for records. *See* Open Records Decision No. 622 (1994). Section 552.130 governs the release and use of information obtained from motor vehicle records issued by an agency of this state.